

TALK FOR MONEY TO PAY JURIES

(Continued from Page 1.)

for the payment of the bailiffs, which was not an authority, but a command. Mr. De Bolt asked what fund this should have been taken from and Judge Humphreys replied that the law did not require an appropriation of funds to the various departments and it might be taken from any money not otherwise appropriated to constitute that the act did not provide for the payment of the bailiffs he said would be an absurdity and the money could be taken from any money in the treasury.

Attorney General Dole began his argument with a statement that he had no wish to oppose the contention of Judge Humphreys if it was legal. He wanted to promote the public good and thought every department should work together, for what injured one department hurt every other branch of the government. "The pillage of the court is great," said Mr. Dole, "and the need of funds for the prosecution of the statute, I hope that Judge Humphreys' contention will prevail. I did not advise the auditor to comply with the demand, for I deemed it a matter of great doubt and not safe for him to render himself personally responsible. The responsibility in cases of this kind should rest with the Supreme Court."

Mr. Dole then called attention to the conference had with Gov. Dole and the unanimity of the opinion of judges that the present appeal to the Supreme Court was proper. Personally he had some doubts in the matter, referring to the provision of the organic act which said that justices may be called to sit on the Supreme Court in pending cases. He thought this question of jurisdiction a serious one. Judge Humphreys replied that if there was any such question it must be construed in favor of the appellant, as a constitutional question was involved.

Referring to the bailiff act Mr. Dole stated that from time immemorial it had always been the custom of the legislature to appropriate certain sums for certain purposes. In this case no specific appropriation had been made, excepting for the Supreme Court bailiff in the salary appropriation. While recognizing the great need of the judicial department for a small sum of money yet if the bailiff act carried an appropriation, then the appropriation was made without limit. "It seems to me," he said, "that the Circuit Courts, under that contention, have the right to appoint as many bailiffs as they see fit. While no judge would be guilty of such an abuse of power, yet Judge Humphreys or any other judge could appoint a thousand bailiffs. What was the limit in this matter, it seems to me that the limit came in making it payable out of the general expenses of Supreme and Circuit Courts."

The attorney general cited his own department as an analogous case in that he was empowered to appoint as many deputies as he desired, but was limited by the lack of funds. "When this act passed the legislature, the contemporaneous construction put upon it was that the Supreme Court bailiff should be paid from the special appropriation and the Circuit Court bailiffs out of the general expense fund," said he. "No one ever dreamed of the construction put upon the act by Judge Humphreys until the judiciary was in pillage. I have heard on several occasions the Judge arguing that the plea of necessity is resorted to only by tyrants, yet now he takes a different view."

Judge Perry inquired whether if the act had authorized the treasury to pay warrants it would have been equal to an appropriation, to which Mr. Dole replied that he had grave doubts. Judge Gear, during Judge Perry's questioning of Mr. Dole, attempted to interrupt several times without success, and finally when he got on his feet and began to talk, Judge Humphreys interrupted him with a request to the court that "I would be pleased to be allowed to finish my argument before the amicus curiae begins."

Judge Gear said that he wasn't appearing as amicus curiae nor was he a party to the case at all. "I want to correct a statement as to the consultation we had with the governor. I claim the right as a matter of personal privilege. It was stated that the Circuit Judges were unanimous in regard to this matter, and I wish to state that as far as I am concerned, it is wrong. In the first place, I don't think this court has any jurisdiction, because I don't believe it to be constitutional. I don't think it consistent with the signing by myself of the orders upon the auditor for the bailiffs to be paid out of the appropriation for expenses of Supreme and Circuit Courts. I signed the orders and, I think, properly. I don't want it said that all three judges are making this contention. I don't appear as an interested party, or as amicus curiae. I am not interested in this appeal and I don't think Judge Humphreys is, either, and I want the court and the public to know it."

Mr. De Bolt asked Mr. Dole under what rule the bailiffs should be paid out of the general expense fund, to which it was replied that they were a necessary expense of the Circuit Courts. Mr. Smith asked several questions as to the legality of the sitting of the Supreme Court to which Mr. Dole replied that the law required at least two justices to hear an appeal of this kind.

"If the contention of the attorney general is correct," replied Judge Humphreys, "and is upheld, it will result in indescribable chaos. If there is a difference between judges and courts, the acts of Circuit Judges in chambers are null and void. If the contention is sound there are no district magistrates, and no equity power in Circuit Judges. The term justices includes any person who might become a legally qualified member of the Supreme Court; if this view is not correct, then I contend the justices, as such, constitute an inferior court created by the legislature. The attorney general says no one dreamed of my contention in regard to the bailiff act. I think I made it pretty clear that it did carry with it an appropriation. I never knew until ten or fifteen days ago that the bailiffs had been paid out of this appropriation, and I immediately raised the question."

Judge Humphreys cited as a parallel case the organic act which did not specify the number of judges nor the amount of the appropriation, yet the third judge was paid from the funds in the hands of the attorney general. He said further that he had signed the

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BIG HEADS ARE COSTLY.

COMMISSION WILL DIG FOR FACTS

Senators Come Seeking Only the Truth, Not History or Personalities.

(From Thursday's daily.)

United States Senator J. R. Burton, of Kansas, and former Senator John M. Thurston of Nebraska were among the most prominent visitors who arrived by the Sierra yesterday. They are accompanied by their wives and in addition Dr. D. W. King, an old personal friend of Senator Burton travels with him, while in Mr. Thurston's party is Carroll Purman, a brother of Mrs. Thurston. Mr. Purman will represent Colliers' Weekly while here.

Senator Burton, while the advance guard of the senatorial commission which is to investigate affairs in Hawaii, came ahead of his colleagues for the purpose of enjoying a brief pleasure tour before he gets down to work and is the guest of honor for a hunting trip on Hawaii which has been arranged by Col. Samuel Parker. The party will leave today at noon in the Helene, which has been held for the purpose of conveying the party. The return will be made before the last of the month, for Senator Burton has made his plans to be present during the Republican convention.

Until the arrival of the rest of the commission there will be nothing official done in the matter of the collection of data upon which the commission will work, but already there have been many representations made to Senator Burton during his trip, and he has acquired a fair knowledge of affairs here, as well as the values which are to be placed upon many cases which will be brought before the commission. Among the many cases upon the senator yesterday were Capt. Whiting, commandant of the naval station, accompanied by Capt. White, who beside offering the usual courtesies of the local establishment, tendered rooms in the station for the commission to use as its headquarters. There is however belief that the Territorial government will offer the commission once it is on the ground, rooms in the executive building, perhaps that used by the last House of Representatives.

"I of course cannot discuss the plans of the commission in the absence of a majority of its members," said Senator Burton, "but I will say that our mission is to find the facts. Personalities will have no place in our hearings. We will welcome any information that may be given to us, but we will not permit personal attacks, nor will we listen to mere speculation. I hope that the result of our visit will be the securing of information which will be of benefit to Hawaii, for certainly it will be to our advantage to see and hear everything about the needs of the country."

"I came ahead of the other members simply that I might enjoy a period of rest and recreation, and the hunting trip which is planned will be on the basis of our spending the ten days before the commission's work begins in the most pleasurable manner possible. I hope to see and become acquainted with the people and to learn much about the islands that will be of help

to me in my work in the Senate. We all labor under the disadvantage of distance. This is the first time the United States has maintained such a rotation as exist between the Central Government and this Territory and the matters constantly coming up make it very hard to know just what should be done. For instance during the last session the duck bill was introduced and passed through the House and came to our committee. We had three opinions from the Interior Department, and as they conflicted there was some question as to what was the proper course. Finally after the airing of views as to the propriety of the executive having power to grant franchises, and the necessity for a general law as to rights of way, such as existed in the states, it was decided to permit the bill to remain on the calendar and next winter we will know more about it.

"Already I am much impressed by the beauty of the scenery and the tropical splendor of the foliage. I shall enjoy my stay immensely. I am sure and the month will be all too short for the visit. Mrs. Burton, who is just as much pleased with the city as I am, will remain in the city during my absence."

"I cannot see any chance for the success of the Democracy in the coming election unless there exists some feeling against the Republican party where we do not now see it. The Democracy as usual is divided and has not taken advantage of opportunities. The outlook is good, even if it is the year for Democracy, according to precedents. And the Republican managers are expecting that there will be a heavy vote for the ticket every where."

"As regards the Cuban situation I cannot be quoted in the matter as I have been so well known as one of the nineteen opposed to the Senate bill. I do not think there will be an extra session. There may be a reciprocity treaty introduced at the next session, but what would be its fate I cannot forecast. I said in a speech after my return to my state that there were not one-third of the members of the senate in favor of the bill for tariff reduction. That was widely quoted and caused much comment, but so far not a senator has denied my statement. I am of course opposed to Democratic tariff reduction as it would operate against our industries."

While Senator Burton will not be quoted as to the work of the commission of which he is a member, forecasts of its plans have been made on the mainland which indicate that there will be a busy month before the three members. Senator John H. Mitchell of Oregon and Senator Foster of Washington are the other members, the former being the chairman, and they planned to sail in the Korea when that vessel leaves San Francisco on Tuesday next. It has been said that the commission will conduct its inquiries along the broadest lines. The needs of the Territory will be looked into generally, and specifically there will be discussion of the revenues, in view of

the taking away of the customs receipts, upon which were based formerly the expenditures of the government. The plan followed in Porto Rico and the Philippines may not be recommended, but the commission will investigate this phase of the local situation fully.

The disposition of the affairs of Ex-Queen Liliuokalani will also occupy some time, and it is regarded as certain that there will be some recommendation in this respect. There was yesterday among the friends of the former ruler a report that from conversations the members of the commission might be expected to propose a cash settlement. An attorney will present the claims of the Ex-Queen to the commission and some pressure will be brought to bear here.

The labor situation will also receive attention. Col. Macfarlane was one of the callers upon Senator Burton yesterday and called his attention to the fact that concessions to Cuba, where there was no labor law to prevent contract work in the fields, would be inimical to beet sugar and Hawaii as well, owing to the fact that labor here is now dearer than ever before. This was a phase which was accentuated by the statement that with a considerable differential in favor of Cuba the production there would be increased perhaps to 5,000,000 tons, which is more than the consumption of the U. S. Senator Burton was pleased to hear that the Chamber of Commerce and the Merchants' Association had undertaken to be of any service to the commission, and said that this would lighten the labors of the committee owing to the readiness with which commercial statistics could be had through the trade bodies.

The party of visitors were entertained at dinner last evening by Col. and Mrs. Samuel Parker, at their Emma street mansion. The dinner was an elaborate one, and the guests included principally the men who will be of the shooting party which is to travel by the Helene today. In the list of guests who will go to Oahu are: Senator Burton, Dr. King, C. W. de Knight, W. M. Clifford, Capt. Ross, Henry Highton, J. T. McCrosson and Col. Parker.

Former Senator Thurston was invited to be of the party but he may not make the trip.

O. W. de Knight, who is traveling with the party of Senator Burton is one of the most successful of the young lawyers of Washington and by reason of his connection with the Southern Pacific interest always has been interested in Hawaii although the present is his first visit.

COMBINATION OF SUGAR PLANTERS

NEW YORK, August 9.—A special to the Sun from New Orleans says: F. M. Morrill, representing the New York and Philadelphia interests which have recently amalgamated the various street railroads, gas and electric light companies of New Orleans into one corporation, with a capital of \$30,000,000, has undertaken, at the request of some of the largest sugar planters in Louisiana, a combination of all the sugar interests of the State.

Morrill said: "I do not see how the planters can fail to combine their interests in the near future. There is little use in attempting to do the prospect of Cuban reciprocity, and when Cuban sugar is admitted into this country on anything like an equal basis with Louisiana sugar, the planters of this State will find combination their only method of salvation."

It is rumored that President Roosevelt will call an extra session of the Senate in November at which a reciprocity treaty will be submitted.

SOME ONE PLAYED A GOOD JOKE

The joker was abroad yesterday, and a former politician from New York City, who did "politics in the district," was the victim. In opening up his mail yesterday morning he found a letter written on a Palace Hotel, San Francisco, letterhead. It was a long letter and bore an official-looking signature, a scrawl only, but with a flourish of pen and ink which made an impression on the reader. The name could not be deciphered, but the typewritten title beneath indicated that it was the alleged signature of an attaché of the Senatorial Commission, now en route to Honolulu.

The contents of the letter were to the effect that the commission had taken cognizance of a petition which had been forwarded to Washington several weeks ago, among the signers thereof being the receiver of the letter. It further stated that this individual had been selected by the commission to take charge of the reception arrangements in Honolulu and to arrange for hotel accommodations. The writer mentioned casually that a suite of apartments would be most acceptable.

In a few minutes the New York politician, who is a somewhat aged man, was rushing about the streets, dodging into various downtown business offices to notify the occupants of the high honor which had been thrust upon him. He hastened to a large hostelry at the beach, and became the guest of those in charge for a few hours. He arranged for the suite, had dinner on the house, and came back to town satisfied. In some way the hotel management ascertained later that it was all a hoax, and the arrangements were quietly cancelled.

Whence came the letter and who was the author, is yet to be determined.

SILVERTOWN IS TAKING IN CABLE

The 2400 miles of deep sea cable which will connect Honolulu with the mainland are now being coiled into the tanks of the cable ship Silvertown, at the works of the company which is constructing the line. This information was given in a letter from S. S. Dickenson, received here yesterday. According to this letter, the advice of the sailing of the ship were expected not later than September 1st, which would mean that the cable would be in San Francisco within 60 days thereafter. Mr. Dickenson found that there was some difficulty in arranging for the delivery of the supplies needed for the local end of the line, such as the iron pipe which will be laid as the cable conveyor, owing to the cost of steel, but this seems to have been adjusted, for he announced that all the delays had been overcome, and there would be no time lost.

Justice Gray's Successor.

OYSTER BAY (N. Y.), August 11.—President Roosevelt late this afternoon announced that he had appointed Oliver Wendell Holmes, Chief Justice of the Supreme Court of Massachusetts, to be an Associate Justice of the Supreme Court of the United States, vice Justice Horace Gray, resigned. The resignation of Justice Gray was due to ill health. Several months ago he suffered a stroke of apoplexy, which some time later was followed by another. He has not appeared on the bench since he was stricken the first time. His advanced age—74 years—told against his recovery. Realizing that he probably never would be able again to assume the place which he so long had filled with distinguished ability and honor, he decided a short time ago to tender his resignation to the President.

A Chilean Squadron.

NEW YORK, August 14.—A Chilean squadron, comprising the cruiser Chacabuco, the transports Raucagua and Malpu, and three destroyers, has arrived at this port, and been received by the Brazilian vessels Reacheulo, Florian Peixoto and Deodoro Fonseca, says the Herald's correspondent at Rio Janeiro. There was a banquet at the Chilean Legation in honor of the officers of the visiting squadron, at which were present the Ministers from the United States and Argentina. A series of entertainments in honor of the Chileans have been arranged. The American cruiser Atlanta and the battleship Iowa have arrived here.

SCHOOL GIRLS.

School girls are proverbially pretty. Fact is, it's a pretty age—that time in a girl's life when she has all the beauties of womanhood without the later lines of care and worry. But here and there even among school girls appear pale drawn faces—a dullness and lack of freshness which tells a plain story of thin blood.

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